

House Bill 374 (AS PASSED HOUSE AND SENATE)

By: Representatives Geisinger of the 48th, Jones of the 46th, Martin of the 47th, and Willard of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to
2 county and municipal levies on public accommodations charges for promotion of tourism,
3 conventions, and trade shows, so as to extend the time for the levy and collection of a tax for
4 the purpose of construction and expansion of a system of bicycle or pedestrian greenways,
5 trails, walkways, or any other combination thereof connecting a downtown historic or
6 business district and surrounding areas under certain circumstances; to provide that certain
7 counties may levy and collect such a tax at the rate of 5 percent; to provide that funds shall
8 be expended in a certain way; to provide for requirements and limitations with respect
9 thereto; to provide for related matters; to provide an effective date; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Code Section 48-13-51 of the Official Code of Georgia Annotated, relating to county and
14 municipal levies on public accommodations charges for promotion of tourism, conventions,
15 and trade shows, is amended by striking subparagraph (a)(1)(D) and inserting in its place a
16 new subparagraph (D) to read as follows:

17 "(D) Except as provided in paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7),
18 (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~and (5.2)~~, and (5.3) of this
19 subsection, no tax levied pursuant to this Code section shall be levied or collected at a
20 rate exceeding 3 percent of the charge to the public for the furnishings."

21 **SECTION 2.**

22 Said Code section is further amended by striking paragraph (2) of subsection (a) and
23 inserting in its place a new paragraph (2) to read as follows:

24 "(2) A county or municipality levying a tax as provided in paragraph (1) of this
25 subsection shall in each fiscal year beginning on or after July 1, 1987, expend for the

1 purpose of promoting tourism, conventions, and trade shows a percentage of the total
2 taxes collected under this Code section which is not less than the percentage of such tax
3 collections expended for such purposes during the immediately preceding fiscal year. In
4 addition, if during such immediately preceding fiscal year any portion of such tax receipts
5 was expended for such purposes through a grant to or a contract or contracts with the
6 state, a department of state government, a state authority, or a private sector nonprofit
7 organization, then in each fiscal year beginning on or after July 1, 1987, at least the same
8 percentage shall be expended through a contract or contracts with one or more such
9 entities for the purpose of promoting tourism, conventions, and trade shows. The
10 expenditure requirements of this paragraph shall cease to apply to a county or
11 municipality which levies a tax at a rate in excess of 3 percent, as authorized under
12 paragraphs (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4),
13 (4.5), (4.6), (4.7), (5), (5.1), ~~and (5.2)~~, and (5.3) of this subsection; and in such case the
14 expenditure requirements of such paragraph of this subsection pursuant to which such tax
15 is levied shall apply instead."

16 SECTION 3.

17 Said Code section is further amended by striking paragraph (4) of subsection (a) and
18 inserting in its place a new paragraph (4) to read as follows:

19 "(4) Notwithstanding any other provision of this subsection, a county (within the
20 territorial limits of the special district located within the county) or municipality may levy
21 a tax under this Code section at a rate of 6 percent. A county or municipality levying a
22 tax pursuant to this paragraph shall expend (in each fiscal year during which the tax is
23 collected under this paragraph (4)) an amount equal to at least 43 1/3 percent of the total
24 taxes collected at the rate of 6 percent for the purpose of: (A) promoting tourism,
25 conventions, and trade shows; (B) supporting a facility owned or operated by a state
26 authority for convention and trade show purposes or any other similar or related purposes;
27 (C) supporting a facility owned or operated by a local authority or local government for
28 convention and trade show purposes or any other similar or related purposes, if a written
29 agreement to provide such support was in effect on January 1, 1987, and if such facility
30 is substantially completed and in operation prior to July 1, 1987; (D) supporting a facility
31 owned or operated by a local government or local authority for convention and trade
32 show purposes or any other similar or related purposes if construction of such facility is
33 funded or was funded prior to July 1, 1990, in whole or in part by a grant of state funds
34 or is funded on or after July 1, 1990, in whole or substantially by an appropriation of state
35 funds; (E) supporting a facility owned by a local government or local authority for
36 convention and trade show purposes and any other similar or related purposes if

1 construction of such facility is substantially funded or was substantially funded on or
2 after February 28, 1985, by a special county 1 percent sales and use tax authorized by
3 Article 3 of Chapter 8 of this title, as amended, and such facility was substantially
4 completed and in operation prior to December 31, 1993; or (F) for some combination of
5 such purposes. Amounts so expended shall be expended only through a contract or
6 contracts with the state, a department of state government, a state authority, a convention
7 and visitors bureau authority created by local Act of the General Assembly for a
8 municipality, or a private sector nonprofit organization, or through a contract or contracts
9 with some combination of such entities, except that amounts expended for purposes (C)
10 and (D) may be so expended in any otherwise lawful manner. In addition to the amounts
11 required to be expended above, a county or municipality levying a tax pursuant to this
12 paragraph (4) shall further expend (in each fiscal year during which the tax is collected
13 under this paragraph (4)) an amount equal to at least 1 percent of the total taxes collected
14 at the rate of 6 percent for the purpose of supporting a museum of aviation and aviation
15 hall of fame or an amount equal to at least 16 2/3 percent of the total taxes collected at
16 the rate of 6 percent for the purpose of construction or expansion of either: (A) a facility
17 owned or operated by a state authority for convention and trade show purposes or any
18 other similar or related purposes; (B) a facility owned or operated by a local authority or
19 local government for convention and trade show purposes or any other similar or related
20 purposes, if such support is provided to a governmental entity with which the county or
21 municipality levying the tax had in effect on January 1, 1987, a contractual agreement
22 concerning governmental support of a convention and trade show facility; (C) a facility
23 owned or operated for convention and trade show purposes, visitor welcome center
24 purposes, or any other similar or related purposes by a convention and visitors bureau
25 authority created by local Act of the General Assembly for a municipality; (D) a facility
26 owned or operated for convention and trade show purposes or any other similar or related
27 purposes by a coliseum and exhibit hall authority created by local Act of the General
28 Assembly for a county and one or more municipalities therein; (E) a facility owned by
29 a local government or local authority for convention and trade show purposes and any
30 other similar or related purposes if construction of such facility is substantially funded
31 or was substantially funded on or after February 28, 1985, by a special county 1 percent
32 sales and use tax authorized by Article 3 of Chapter 8 of this title, as amended, and such
33 facility was substantially completed and in operation prior to December 31, 1993; (F) a
34 system of bicycle or pedestrian trails or walkways or both connecting a historic district
35 within the levying county or municipality and surrounding areas (and with respect to this
36 purpose (F) construction and expansion shall include acquisition and development), if not
37 later than December 1, 1993, the county or municipality has adopted ordinances,

1 resolutions, or contracts which: (i) designate such historic district; (ii) obligate the county
2 or municipality to provide funds to promote tourism to a historic district owners and
3 business association which qualifies as a private sector nonprofit organization under
4 subparagraph (a)(8)(A) of this Code section and Section 501(c)(6) of the Internal
5 Revenue Code; (iii) provide a 'comprehensive plan' as provided for in Chapters 70 and
6 71 of Title 36; (iv) provide a transportation plan as a component of such comprehensive
7 plan; and (v) provide a recreation plan which is designed to identify recreation needs
8 through the year 2000 and which includes provisions for such system of trails or
9 walkways or both; provided that the authority to expend funds for such system of trails
10 or walkways or both shall expire when all capital costs of the initial acquisition,
11 construction, and development of such system as identified in the relevant plan have been
12 paid and in no event later than July 1, 2002. Amounts so expended to meet such 16 2/3
13 percent expenditure requirement shall not be subject to the foregoing provisions of this
14 paragraph requiring expenditure through a contract or contracts with certain entities; or
15 (G) a system of bicycle or pedestrian greenways, trails, walkways, or any combination
16 thereof connecting a downtown historic or business district within the levying county or
17 municipality and surrounding areas (and with respect to this purpose (G) construction and
18 expansion shall include acquisition and development), if not later than December 1, 2000,
19 the county or municipality has adopted ordinances, resolutions, or contracts which: (i)
20 designate such historic or downtown business district; (ii) obligate the county or
21 municipality to provide funds to promote tourism to a downtown business district owners
22 and business association or chamber of commerce which qualify as private sector
23 nonprofit organizations under subparagraph (a)(8)(A) of this Code section and Section
24 501(c)(6) of the Internal Revenue Code; (iii) provide a 'comprehensive plan' as provided
25 for in Chapters 70 and 71 of Title 36; (iv) provide a transportation plan as a component
26 of such comprehensive plan; and (v) provide a recreation plan as a component of such
27 comprehensive plan which includes provisions for such system of trails or walkways or
28 both; provided that the authority to expend funds for such system of trails or walkways
29 or both shall expire when all capital costs of the initial acquisition, construction, and
30 development of such system as identified in the relevant plan have been paid and in no
31 event later than July 1, ~~2005~~ 2025. Amounts so expended to meet such 16 2/3 percent
32 expenditure requirement shall not be subject to the foregoing provisions of this paragraph
33 requiring expenditure through a contract or contracts with certain entities."

SECTION 4.

Said Code section is further amended in subsection (a) by adding a new paragraph immediately following paragraph (5.2), to be designated paragraph (5.3), to read as follows:

"(5.3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, a county (within the territorial limits of the special district located within the county) and municipalities within such a county in which a convention and visitor's bureau authority has been created by local Act of the General Assembly which was in existence on July 1, 2005, and which authority is established specifically by such local Act as a permissible, but not exclusive, entity for the transfer of hotel and motel tax funds by the taxing entities of the county for which such authority was created may levy a tax under this Code section at a rate of 5 percent.

(B) The provisions of paragraph (2) of this subsection relating to expenditures shall apply to this paragraph; provided, however, that a county or municipality levying a tax pursuant to this paragraph shall be authorized, but not required, to expend funds through a convention and visitor's bureau authority created by local Act of the General Assembly."

SECTION 5.

Said Code section is further amended by striking paragraph (6) of subsection (a) and inserting in its place a new paragraph (6) to read as follows:

"(6) At no time shall a county or municipality levy a tax under more than one paragraph of this subsection. Following the termination of a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection, any county or municipality which has levied a tax pursuant to paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection shall be authorized to levy a tax in the manner and at the rate authorized by either paragraph (1), paragraph (3), or paragraph (4) of this subsection but shall not thereafter be authorized to again levy a tax under paragraph (2.1), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection."

SECTION 6.

Said Code section is further amended by striking paragraphs (9) and (10) of subsection (a) and inserting in their places new paragraphs (9) and (10) to read as follows:

"(9)(A) A county or municipality imposing a tax under paragraph (1), (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection shall prior to the imposition of the tax (if the

tax is imposed on or after July 1, 1990) and prior to each fiscal year thereafter in which the tax is imposed adopt a budget plan specifying how the expenditure requirements of this Code section will be met. Prior to the adoption of such budget plan, the county or municipality shall obtain from the authorized entity with which it proposes to contract to meet the expenditure requirements of this Code section a budget for expenditures to be made by such organization; and such budget shall be made a part of the county or municipal budget plan.

(B)(i) The determination as to whether a county or municipality has complied with the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection shall be made for each fiscal year beginning on or after July 1, 1987, as of the end of each fiscal year, shall be prominently reflected in the audit required under Code Section 36-81-7, and shall disclose:

(I) The amount of funds expended or contractually committed for expenditure as provided in paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection, whichever is applicable, during the fiscal year;

(II) The amount of tax receipts under this Code section during such fiscal year; and

(III) Expenditures as a percentage of tax receipts.

(ii) A county or municipality contractually expending funds to meet the expenditure requirements of paragraph (2), (2.1), (3), (3.1), (3.2), (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2), or (5.3) of this subsection shall require the contracting party to provide audit verification that the contracting party makes use of such funds in conformity with the requirements of this subsection. If the audit required by Code Section 36-81-7 identifies noncompliance with the applicable expenditure requirements of this Code section, such noncompliance shall be reported in accordance with paragraph (2) of subsection (c) of Code Section 36-81-7. The state auditor shall report all instances of noncompliance with this subparagraph noted in the audit report to the Department of Community Affairs upon completion of the report review required by paragraph (2) of subsection (d) of Code Section 36-81-7. The state auditor shall furnish a copy of all documents submitted by the local government or the local government's auditor pertaining to noncompliance with this subparagraph to the Department of Revenue. The Department of Community Affairs shall submit a copy of such documents to the performance review board.

(10) Nothing in this article shall be construed to limit the power of a county or municipality to expend more than the required amounts, or all, of the total taxes collected

1 under this Code section for the purposes described in paragraph (2), (2.1), (3), (3.1), (3.2),
2 (3.3), (3.4), (3.5), (3.7), (4), (4.1), (4.2), (4.3), (4.4), (4.5), (4.6), (4.7), (5), (5.1), ~~or~~ (5.2),
3 or (5.3) of this subsection."

4 **SECTION 7.**

5 This Act shall become effective upon its approval by the Governor or upon its becoming law
6 without such approval.

7 **SECTION 8.**

8 All laws and parts of laws in conflict with this Act are repealed.